



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/368,433	08/05/1999	ROBERT ALAN FLAVIN	YO998-205	5521

21254 7590 07/02/2003

MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/368,433

Applicant(s)

FLAVIN, ROBERT ALAN

Examiner

Son P Huynh

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 03/06/2003 have been fully considered but they are either not persuasive or moot in view of the new ground(s) of rejection.
2. Applicant's argument about double patenting "the claims of the patent do not render obvious the present claims because the present application do not require that the announcements be selectively added by any of a broadcaster and a party other than the broadcaster" (line 20 of page 10- line 2 of page 11). The examiner respectfully disagrees with applicant's argument. It is clear that the present claims 1, 5-6, 11-13 are broader in scope than patent claims 1-7 of U.S. Patent No. 6,005,603. Applicant appears to agree with this as evidenced in the 9/19/2002 response at page 11. Therefore, claims 1, 5-6, 11-13 of the instant application and claims 1,3-7 respectively of patent number 6.005.603 are directed to the same invention with a difference in scope, i.e.; Claims 1, 5-6, 11-13 of the application are broader in scope than patent claims 1, 3-7. Therefore, the double patenting rejection is maintained.

Double Patenting

3. Claims 1,5-6, 11-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-7 of U.S. Patent No. 6,005,603 (hereinafter referred to as '603). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claim 1, claim 1 of '603 recites a segment announcement receiver comprising: a receiver section for receiving a signal; one or more announcements carried on the signal, the announcement containing:
a description about one or more of the content streams;
a time at which the content stream is received on the carrier signal, and
a content stream identifier, the one or more announcements being selectively added to the signal by a party other than a broadcaster of the stream; and
a controller that performs a function determined by the description and the time. It is obvious that the one or more announcements correspond to a content being provided on the one or more content stream in order to provide information of the content stream.

Claim 1 is broader in scope than patent claim 1.

Regarding claim 5, claim 3 of '603 recites a segment announcement receiver comprising:

Art Unit: 2611

a first receiver section for receiving one or more content streams on a content carrier signal;

a second receiver section for receiving one or more announcements, each of the announcements containing a description about one or more content streams, a time at which the content stream is received by the first receiver section, and a content stream identifier, and

a controller that performs a function in a signal processing device determined by the description and the time, wherein one or more announcements being selectively added to the signal by a party other than a broadcaster of the stream. It is obvious that the one or more announcements correspond to a content being provided on the one or more content stream in order to provide information of the content stream.

Claim 5 is broader in scope than patent claim 3.

Regarding claim 6, claim 4 of '603 recites a segment announcement system comprising:

an analyzer that analyzes a content of one or more content streams;

an announcement generator that creates one or more announcements containing a description about one or more of the content streams; and

a transmitter section that sends the announcement to one or more receivers, the one or more announcements being selectively added to the signal by a party other than a broadcaster of the content streams. It is obvious that the receivers comprises a controller that alters a presentation of the one or more content streams in accordance

Art Unit: 2611

with the description and the time from a corresponding announcement in order to change the presentation in accordance with the description and time created by the party.

Claim 6 is broader in scope than patent claim 4.

Regarding claim 11, claim 5 of '603 recites a closed circuit transmission system comprising:

one or more segment announcer system comprising:

an analyzer that analyzes a content of one or more content streams;

an announcement generator that creates one or more announcements containing description about one or more of the content streams and a time associated with the content stream;

a transmitter section that sends the announcement over a communication network; and

one or more segment announcement receivers comprising:

a receiver section for receiving the announcement and the content stream;

a controller that performs a function determined by the description and the time.

Claim 11 is broader in scope than patent claim 5.

Regarding claim 12, claim 6 of '603 recites a process comprising:

receiving one or more content streams,

receiving one or more announcements having one or more description about the content of one or more of the content stream, the one or more announcements being selectively added to a content stream by a party other than a broadcaster of the content stream;

matching one or more of the descriptions to one or more of the content streams; and
performing a function during the processing of one of the content streams if the content stream being processed matches one or more of the descriptions.

Claim 12 is broader in scope than patent claim 6.

Regarding claim 13, claim 7 of '603 recites a segment announcement receiver comprising:

means for receiving one or more announcement having one or more descriptions about the content of one or more of the content streams, the one or more announcements being selectively added to a content stream by a party other than a broadcaster of the content stream;

means for receiving one or more content streams;

means for matching the description of the content; and

means for performing a function during the processing of one of the content streams if the content stream being processed matches one or more of the description.

Claim 13 is broader in scope than patent claim 7.

4. Allowance of claims 1, 5-6, 11-13 would result in an un-warranted time wise extension of the monopoly granted for the invention as defined in claims 1, 3-7 of patent number 6,005,603. Therefore, the double patenting is justified.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1-7, 9-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US 5798,785).

Regarding claim 1, Hendricks discloses a delivery system comprising operation center 202 receives television programs from external program sources 212, the received television programs then packaged into the groups and categories. After the CAP packets the programs, it creates a program control information signal to be delivered with the program package to the cable modem and/or set top terminal 220. The

Art Unit: 2611

program control information contains a description of the contents of the program package, commands to be sent to the cable head end and/or set top terminal and other information relevant to the signal transmission (see col. 6, line 4-col. 7, line 14).

Hendricks further discloses the program control signal includes: number of program categories, names of program categories, what channels are assigned to a specific category (such as special channels), names of channels, name of programs on each channel, program start times, length of programs, description of programs, menu assignment for each program, pricing, whether there is a sample video clip for advertisement for the program, and any other program, menu or product information (see col. 12, lines 54-63); In addition, Hendricks teaches the terminal creates a personal profile for the particular viewer. Using the data in the particular viewer's personal profile, subscriber mood information and the television program information available in the program control information signal, the microprocessor 602 in the set top terminal 220 is able to select a group of programs, which the particular viewer is most likely watch (see col. 29, line 1- col. 38, line 33). Thus, Hendricks teaches the set top terminal reads on the segment announcement receiver as claimed, wherein program control information signals read on the announcements, microprocessor 602 reads on the controller, operation center 202 reads on the "party" and external sources 212 reads on the broadcaster, personal profile reads on the "filter record".

Regarding claim 2, Hendricks discloses the description includes a category (see col. 12, lines 54-63).

Regarding claim 3, Hendricks discloses a source of the signal comprises a computer (see col. 6, lines 31-52).

Regarding claim 4, Hendricks the presentation is by a television 222 (see figure 3).

Regarding claim 5, Hendricks discloses a delivery system comprising operation center 202 receives television programs from external program sources 212, the received television programs then packaged into the groups and categories. After the CAP packets the programs, it creates a program control information signal to be delivered with the program package to the cable head end and/or set top terminal 220. The set top box received television by tuner 603 (see figure 4); and program control information signal can be sent directly from the Operation center 202, processed by the network controller 214 and then forwarded to the set top box, or transmitted over telephone lines (see col. 19, lines 30-35) The program control information contains a description of the contents of the program package, commands to be sent to the cable head end and/or set top terminal and other information relevant to the signal transmission (see col. 6, line 4-col. 7, line 14). Hendricks further discloses the program control signal includes: number of program categories, names of program categories, what channels are assigned to a specific category (such as special channels), names of channels, name of programs on each channel, program start times, length of programs, description of programs, menu assignment for each program, pricing, whether there is a sample video

Art Unit: 2611

clip for advertisement for the program, and any other program, menu or product information (see col. 12, lines 54-63); telephone line is used to connected modem 627 with network controller 217 (see col. 13, line 55-col. 14, line 1). In addition, Hendricks teaches the terminal creates a personal profile for the particular viewer. Using the data in the particular viewer's personal profile, subscriber mood information and the television program information available in the program control information signal, the microprocessor 602 in the set top terminal 220 is able to select a group of programs, which the particular viewer is most likely watch (see col. 29, line 1- col. 38, line 33). Thus, Hendricks teaches the set top terminal reads on the segment announcement receiver as claimed, wherein program control information signals read on the announcements, television program reads on content stream, tuner 603 reads on first receiver section, tuner 603 or modem 627 reads on the second receiver section, microprocessor 602 reads on the controller, operation center 202 reads on the "party" and external sources 212 reads on the broadcaster, personal profile reads on the "filter record".

Regarding claim 6, Hendricks discloses a delivery system comprising operation center 202 receives television programs from external program sources 212, the received television programs then packaged into the groups and categories by a programmer and computer assisted packaging (CAP). After the CAP packets the programs, it creates a program control information signal to be delivered with the program package by program delivery 204 to the cable modem and/or set top terminal 220. The program

Art Unit: 2611

control information contains a description of the contents of the program package, commands to be sent to the cable head end and/or set top terminal and other information relevant to the signal transmission (see col. 6, line 4-col. 7, line 14).

Hendricks further discloses the program control signal includes: number of program categories, names of program categories, what channels are assigned to a specific category (such as special channels), names of channels, name of programs on each channel, program start times, length of programs, description of programs, menu assignment for each program, pricing, whether there is a sample video clip for advertisement for the program, and any other program, menu or product information (see col. 12, lines 54-63); In addition, Hendricks teaches the terminal creates a personal profile for the particular viewer. Using the data in the particular viewer's personal profile, subscriber mood information and the television program information available in the program control information signal, the microprocessor 602 in the set top terminal 220 is able to select a group of programs, which the particular viewer is most likely watch (see col. 29, line 1- col. 38, line 33). Thus, Hendricks teaches television delivery system 200 reads on the segment announcement system, wherein the programmer and CAP read on the analyzer and the announcement generator, program delivery 204 reads on the transmitter section, program control information signals read on the announcements, microprocessor 602 reads on the controller, operation center 202 reads on the "party" and external sources 212 reads on the broadcaster, personal profile reads on the "filter record".

Regarding claim 7, Hendricks et al. teaches a system as discussed in the rejection of claim 6 wherein the analyzer comprises a programmer (see col. 6, lines 35-52).

Regarding claim 9, Hendricks et al. discloses the announcement comprises a time associated with the content stream (see col. 20, lines 57-67).

Regarding claim 10, Hendricks et al. discloses the announcement further comprises a content stream identifier (see col. 20, line 57+).

Regarding claim 11, Hendricks et al. discloses a system as discussed in the rejection of claim 6. Hendricks further discloses set top terminal 220 comprises tuner 603 and modem 627 for receiving the content stream and the announcement (see figure 4).

Regarding claim 12, Hendricks teaches a process comprising:

adding an announcement to a signal including a content stream by a party other than a broadcaster of the content stream (adding control signal information into television program at the operation center 202);

receiving the content stream, the announcement having a description about a content of the content stream (see figures 1-2);

matching the description to the content stream (program control information is created after the television programs is packaged and program control information and

television are sent to set top terminal 220. The set top terminal uses the program control

information to generate a menu, User select an icon on the menu to display television program correspond to the selected icon- see figures 1, 12a); and presenting the content based upon the description if the content matches the description and based upon a comparison of the announcement to a filter record which includes at least one user preference for the presentation (see figures 1 and 6,8, 13A-14).

Regarding claim 13, the limitation of the segment announcement receiver correspond to the limitations of the process as claimed in claim 12 and are analyzed as discussed in the rejection of claim 12.

Regarding claim 14, Hendricks teaches a segment announcement receiver as discussed in the rejection of claim 1, Hendricks further teaches a television screen for presenting the content stream, wherein the controller in the set top terminal controls the television screen to alter the presentation (see figures 3-4).

Regarding claim 15, Hendricks teaches a segment announcement receiver as discussed in the rejection of claim 5, Hendricks further teaches a television screen for presenting the content stream, wherein the controller in the set top terminal controls the television screen to alter the presentation (see figures 3-4).

Regarding claim 16, Hendricks teaches a segment announcement receiver as discussed in the rejection of claim 6, Hendricks further teaches a television screen for presenting the content stream, wherein the controller in the set top terminal controls the television screen to alter the presentation (see figures 3-4).

Regarding claim 17, Hendricks teaches a segment announcement receiver as discussed in the rejection of claim 11, Hendricks further teaches a television screen for presenting the content stream, wherein the controller in the set top terminal controls the television screen to alter the presentation (see figures 3-4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US 5,798,785) as applied to claim 7 above, in view of Menard et al. (US 6,061,056).

Regarding claim 8, Hendricks teaches a system as discussed in the rejection of claim 7. However, Hendricks et al. does not explicitly disclose electronic signal processor includes video image process that queries by image content.

Menard et al. discloses a system for automatically monitoring broadcast, such as television broadcasts, and detecting content of particular interest to individual viewer comprising video capture 9, closed caption capture 10 and audio capture 11 wherein the video or audio or closed caption of the television were captured and compared to the stored data. If the captured data matches the stored data, the receiver receives an alert that indicate the on the screen. If a display has been requested, unit 417 cause unit 418 to start displaying the video, audio and closed caption (see figures 1 and 5). Necessarily, Menard et al. teaches the electronic signal processor includes video image processor that queries by image content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to incorporate a feature as taught by Menard et al. in order to reduce labor cost at the operation center and provide an desired data to user.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2611

Woo (US 5,485,219) teaches electronic service to record transmission without recording commercials.

Picco (US 6,029,045) teaches system and method for inserting local content into programming content.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-0377.



ANDREW FAILE

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Son P. Huynh
June 27, 2003